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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,761	11/12/2003	Kyo Inoue	S02-133	7395
30869	7590	06/11/2007		
LUMEN INTELLECTUAL PROPERTY SERVICES, INC. 2345 YALE STREET, 2ND FLOOR PALO ALTO, CA 94306			EXAMINER	
			LIPMAN, JACOB	
			ART UNIT	PAPER NUMBER
			2134	
			MAIL DATE	DELIVERY MODE
			06/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/712,761	INOUE ET AL.	
	Examiner	Art Unit	
	Jacob Lipman	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 November 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The examiner has considered the information disclosure statement (IDS) submitted on 19 December 2003.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 5, 7, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claims 5, applicant claims that the beat difference between photons is small enough that it is large compared to the pulse width. This limitation is unclear and contains several terms of degree, such as "small enough" that are indefinite.

With regard to claims 7, the term "ns" is not defined in the claim or specification. For the sake of this office action it is being understood as an abbreviation for the word nanosecond, which is defined broadly as a very brief moment (Merriam-Webster online). In future office actions, this word should be written and not abbreviated.

Claim 15 contains the trademark/trade name InGaAs/InP. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope

is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a product and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1-9, 12, and 14-16, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Townsend, USPN 5,675,648.

With regard to claim 16, Townsend discloses a time-phase entanglement photon pair source including a regulated single-photon generator for sequentially generating two photons of a pair (column 4 lines 9-16), wherein the two photons have random relative phase and are separated by a regulated time interval, delta t (column 4 lines 17-21), and an optical coupler for coherently splitting each of the two photons into two coherent components directed, respectively, to two receivers (column 7 lines 34-41).

With regard to claims 1, 5, 7, 9, and 15, Townsend discloses at the two receivers, generating from each component of each photon a coherent superposition of time-shifted states having a relative time shift of delta t (column 8 lines 26-30) detecting the

photons with single-photon detectors (column 8 lines 31-32) and deriving part of a quantum key from detector information and time slot information associated with the detecting (column 8 lines 26-32).

With regard to claim 2, Townsend discloses the photons are generated with random relative phase (column 3 lines 26-31).

With regard to claim 3, Townsend discloses the photons are indistinguishable by the detectors (column 4 lines 9-16).

With regard to claim 4, Townsend discloses the receivers have polarization-independent operation (column 5 line 66-column 6 line 5).

With regard to claim 6, Townsend discloses the time delay is larger than the pulses (fig 3a).

With regard to claims 8 and 12, Townsend discloses synchronizing the transmitter and receiver to a common reference (column 7 line 54-column 8 line 24).

With regard to claim 14, Townsend discloses the interferometer comprises a phase rotator (column 6 lines 8-10).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10, 11, 13, 14, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Townsend.

With regard to claims 10, 11, 13, 14, 17, and 18, Townsend discloses the method of claim 1, as outlined above, but does not go into the specifics of how the photon is generated exactly. The examiner takes official notice that using a quantum-dot in a micro-cavity and color centers of a diamond and using a wavelength are well known ways to create photons. It would have been obvious for one of ordinary skill in the art to use any of these methods when implementing Townsend when they are available for the motivation of using existing equipment.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Lipman whose telephone number is 571-272-3837. The examiner can normally be reached on M-Fr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571-272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL

